

AMENDED IN ASSEMBLY JUNE 20, 2006
AMENDED IN ASSEMBLY APRIL 19, 2006
AMENDED IN ASSEMBLY JUNE 22, 2005
AMENDED IN SENATE MAY 11, 2005
AMENDED IN SENATE APRIL 11, 2005

SENATE BILL

No. 1041

Introduced by Senator Denham
(Coauthors: Assembly Members La Malfa and Spitzer)

February 22, 2005

An act to ~~amend Sections 3953, 3954, 3959, 3960, 3965, 3965.1, and 4051 of, and to repeal Sections 3955, 3962, 4051.2, 4508, and 4509 of,~~ add Section 3350 to the Food and Agricultural Code, relating to agricultural associations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1041, as amended, Denham. District agricultural associations.

Existing law provides for the organization of the California Exposition and State Fair and other district agricultural fairs within the Department of Food and Agriculture.

This bill would require the department to establish procurement and contracting guidelines, as specified.

~~Existing law provides for the organization and administration of the state's district agricultural associations and the duties of officers and directors, as specified. Under existing law, associations are state institutions, directors are state officers, and actions by them require approval by a state agency, as specified.~~

~~This bill would restructure the governance of the district agricultural associations, make them public corporations, and provide for the transition of the associations and their administration to local control, unless the association chooses to remain a state agency.~~

~~Existing law provides that the members of the board of directors of each district association shall be appointed by the Governor. This bill would provide that directors are to serve until a new governance plan is adopted or until December 31, 2010, whichever is earlier.~~

~~This bill would provide that the Department of Food and Agriculture shall work with the boards of directors of the district agricultural associations in order to develop a plan to establish full local control. This bill would also provide that district agricultural association employer-employee relations would be governed by the Ralph C. Dills Act, and provide for the continuation and application of any collective bargaining agreement or memorandum of understanding that applies to covered employees, as specified.~~

~~The bill would also prescribe the duties and responsibilities of the reorganized association boards and make technical, nonsubstantive, and clarifying changes.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.~~

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 3350 is added to the Food and
- 2 Agricultural Code, to read:
- 3 3350. (a) The department shall develop contracting and
- 4 procurement guidelines for district agricultural associations and
- 5 the California Exposition and State Fair. The guidelines shall do
- 6 both of the following:
- 7 (1) Comply with all relevant provisions of the Public Contract
- 8 Code and the Government Code.
- 9 (2) Recognize the unique business activities and opportunities
- 10 of district agricultural associations and the California Exposition
- 11 and State Fair.
- 12 (b) The guidelines shall be developed in consultation with the
- 13 interested stakeholders including, but not limited to, the
- 14 Department of General Services and representatives of
- 15 recognized employee organizations and fair management.

1 ~~SECTION 1. Section 3953 of the Food and Agricultural Code~~
2 ~~is amended to read:~~

3 ~~3953. (a) Each association is a separate public corporation,~~
4 ~~created for the local administration of a part of the affairs of the~~
5 ~~state and not a “state” agency within the meaning of Section~~
6 ~~11000 of the Government Code. The foregoing codifies the~~
7 ~~holdings in People ex rel. Post v. San Joaquin Valley~~
8 ~~Agricultural Ass’n. (1907) 151 Cal. 797 and Sixth Dist. Agric.~~
9 ~~Ass’n v. Wright (1908) 154 Cal. 119.~~

10 ~~(b) This act shall be known, and may be cited, as the District~~
11 ~~Agricultural Association Local Control Act of 2005. It is the~~
12 ~~intent of the Legislature to restructure the governance of district~~
13 ~~agricultural associations consistent with subdivision (a).~~

14 ~~(c) Notwithstanding subdivisions (a) and (b), each district~~
15 ~~agricultural association wishing to continue to operate as a state~~
16 ~~agency shall continue to operate as a state agency, unless the~~
17 ~~district agricultural association board completes a transition plan~~
18 ~~in accordance with Section 3959.~~

19 ~~SEC. 2. Section 3954 of the Food and Agricultural Code is~~
20 ~~amended to read:~~

21 ~~3954. Each association by its name has perpetual succession.~~
22 ~~It may have a seal. An association may be sued and may sue and~~
23 ~~do any and all things necessary to carry out the powers and the~~
24 ~~objects and purposes for which the association is formed.~~

25 ~~SEC. 3 Section 3955 of the Food and Agricultural Code is~~
26 ~~repealed.~~

27 ~~SEC. 4. Section 3959 of the Food and Agricultural Code is~~
28 ~~amended to read:~~

29 ~~3959. (a) The directors shall be appointed by the Governor to~~
30 ~~serve until the department approval of a governance plan in~~
31 ~~accordance with subdivision (b), or December 31, 2010,~~
32 ~~whichever is earlier.~~

33 ~~(b) (1) The department shall work with each district~~
34 ~~agricultural association board to review and approve a~~
35 ~~governance plan to establish full local control consistent with this~~
36 ~~chapter. Each district agricultural association shall obtain~~
37 ~~department approval before full local control may take effect.~~
38 ~~The governance plan shall identify the mechanisms for carrying~~
39 ~~out the provisions of this section.~~

~~(2) Notwithstanding any other provision of law, district agriculture association employer-employee relations shall be governed by the Ralph C. Dills Act (Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1 of the Government Code) and not by the Myers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code). The district agriculture association shall be deemed the successor employer for the purposes of collective bargaining and representational rights under the Ralph C. Dills Act and the continuation and application of any collective bargaining agreement or memorandum of understanding that applies to covered employees. Public employees of the district agriculture association shall continue to be deemed public employees of the state for all the purposes of collective bargaining and representational rights under the Ralph C. Dills Act and the continuation and application of any collective bargaining agreement or memorandum of understanding that applies to covered employees.~~

~~(3) Any existing collective bargaining agreement or memorandum of understanding shall remain in effect and be fully binding on the newly established local district agriculture association as a successor employer, and not the employee organizations that are parties to the agreement for the balance of the term of the agreement between the employees organization and State of California, until the existing agreement expires or a successor agreement has been established between the district agriculture association and the exclusive representative employee organization.~~

~~(4) Existing retirement benefits, specifically pension, health, and dental benefits, for existing district agriculture association employees who were state employees with the association prior to the department's approval of the association's governance plan, shall not be diminished unless those benefits are modified by collective bargaining or, in the case of excluded employees, by the decision of the board of the district agriculture association.~~

~~(5) Notwithstanding any other provision of law, an employee organization that has been recognized as the exclusive representative for the employees of the district agriculture association as that association was constituted prior to the department's approval of the association's governance plan, shall~~

1 continue as the exclusive representative of the unit employees for
2 the balance of the existing collective bargaining agreement or
3 memorandum of understanding. Nothing in this act shall prohibit
4 or require the determination or election of a new employee
5 organization to serve as the exclusive representation for the
6 applicable bargaining unit. The determination or election of a
7 new employee organization may occur in accord with the laws,
8 rules, and procedures administered by the Public Employment
9 Relations Board applicable to employees otherwise covered by
10 the Ralph C. Dills Act upon expiration of the existing collective
11 bargaining agreement applicable to the bargaining unit of the
12 association's employees.

13 (6) ~~The department shall appoint a single bargaining agent to~~
14 ~~represent district agricultural associations collectively in~~
15 ~~negotiating a successor collective bargaining agreement or~~
16 ~~memorandum of understanding upon the expiration of existing~~
17 ~~agreements. Nothing in this section shall be construed to require~~
18 ~~that all employees of all district agriculture associations receive~~
19 ~~the same salaries and benefits.~~

20 (7) ~~A collective bargaining agreement or memorandum of~~
21 ~~understanding negotiated on behalf of a district association shall~~
22 ~~not be subject to Section 3517.5, 3517.6, 3517.61, 3517.7,~~
23 ~~3517.8, or 3518 of the Government Code.~~

24 SEC. 5. ~~Section 3960 of the Food and Agricultural Code is~~
25 ~~amended to read:~~

26 3960. ~~The term of office of each director, except that of a~~
27 ~~member of the first board, is four years from the beginning of the~~
28 ~~term for which he or she is appointed. Any vacancy shall be~~
29 ~~filled for the unexpired term subject to Section 3959.~~

30 SEC. 6. ~~Section 3962 of the Food and Agricultural Code is~~
31 ~~repealed.~~

32 SEC. 7. ~~Section 3965 of the Food and Agricultural Code is~~
33 ~~amended to read:~~

34 3965. ~~The board may:~~

35 (a) ~~Fix the term of office, the amount of bond, salary, and~~
36 ~~prescribe the duties of the secretary and of the treasurer.~~

37 (b) ~~Manage the affairs of the association.~~

38 (c) ~~Make all necessary bylaws, rules, and regulations for the~~
39 ~~government of the association.~~

~~(d) Arrange for and conduct, or cause to be conducted, or by contract permit to be conducted, by any other individual, institution, corporation, or association, upon its property at such time as it may deem advisable, any activity, notwithstanding any other provisions of the code.~~

~~(e) Delegate, as it may deem advisable, to its officers or employees any of the powers which are vested in the board under subdivisions (b) and (d) of this section. Any such delegation of powers may be revoked at any time.~~

~~SEC. 8. Section 3965.1 of the Food and Agricultural Code is amended to read:~~

~~3965.1. The board may enter into the following types of contracts:~~

~~(a) Revenue generating contracts.~~

~~(b) Revenue generating contracts involving hazardous activities as long as adequate insurance coverage is provided.~~

~~SEC. 9. Section 4051 of the Food and Agricultural Code is amended to read:~~

~~4051. An association may do any of the following:~~

~~(a) Contract.~~

~~(b) Purchase, acquire, hold, sell, exchange, lease, or convey any interest in real or personal property and beautify or improve that property, subject to the approval of the Department of Food and Agriculture, or its successor in office or function, as to any property owned by the State of California.~~

~~(c) Subject to subdivision (b), lease, let, or grant licenses for the use of its real estate or personal property, or any portion of that property, to any person or public body for whatever purpose may be approved by the board.~~

~~(d) Subject to subdivision (b), use or manage its real estate or personal property, or any portion of that property, for any or all of the purposes of this section jointly with any lessee, sublessee, or licensee, or otherwise use or manage the property in connection with the lease, sublease, or license which is made or granted.~~

~~(e) Subject to subdivision (b), lease or let its real property for public park, recreational, or playground purposes.~~

~~(f) Rent or permit the use of its premises for any purpose which is beneficial to the agricultural industry, including, but not~~

1 ~~limited to, the holding of sales or auctions of cattle or other~~
2 ~~livestock.~~

3 ~~(g) Contract with any county or county fair association for~~
4 ~~holding a fair jointly with the county or county fair association.~~
5 ~~The joint fair is a district fair of the association.~~

6 ~~(h) Subject to subdivision (b), pledge any and all revenues,~~
7 ~~moneys, accounts, accounts receivable, contract rights, and other~~
8 ~~rights to payment of whatever kind, pursuant to such terms and~~
9 ~~conditions as are approved by the board. The revenues, moneys,~~
10 ~~accounts, accounts receivable, contract rights, and other rights to~~
11 ~~payment of whatever kind pledged by the association or its~~
12 ~~assignees constitute a lien and security interest which~~
13 ~~immediately attaches to the property so pledged and is effective,~~
14 ~~binding, and enforceable against the association, its successors,~~
15 ~~purchasers of the property so pledged, creditors, and all others~~
16 ~~asserting rights therein, to the extent set forth, and in accordance~~
17 ~~with, the terms and conditions of the pledge, irrespective of~~
18 ~~whether those persons have notice of the pledge and without the~~
19 ~~need for any physical delivery, recordation, filing, or further act.~~

20 ~~SEC. 10. Section 4051.2 of the Food and Agricultural Code is~~
21 ~~repealed.~~

22 ~~SEC. 11. Section 4508 of the Food and Agricultural Code is~~
23 ~~repealed.~~

24 ~~SEC. 12. Section 4509 of the Food and Agricultural Code is~~
25 ~~repealed.~~